IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5038 of 2006 (O&M)
Date of decision : 7.11.2006

New India Assurance Co.Ltd.

....Appellant

Versus

Lachwinder Kaur & others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Paul S.Saini, Advocate
for the appellant.

...

MAHESH GROVER, J.(Oral)

In this appeal by the insurer against the award of the Motor Accident Claims Tribunal, Ropar, dated 17.8.2006 passed in M.A.C.T.Case No.15 of 2.5.2005, the appellant sought to assail the findings of the Tribunal on the issue of the involvement of the vehicle in the said accident as also on the quantum of compensation on the strength of the permission granted to it under the provisions of Section 170 of the Motor Vehicles Act.

The accident which took place on 15.2.2005 was sought to be projected as a hit and run case by pleading complete denial of the involvement of the vehicle being a truck in the accident. It is contended by the learned counsel for the appellant that the description of the vehicle and other necessary particulars were not mentioned in the FIR. Besides, the police initially filed an untraced report regarding the incident and even re-investigation, which had been ordered on the

intervention of the senior officials of the police, has not resulted in any conclusive finding involving the truck in question.

We have heard the learned counsel for the appellant and have perused the award which reveals that even though the FIR was lodged on 15.2.2005 on the date of accident, yet the police has not been able to complete its investigation satisfactorily. Besides, the non-examination of the owner and the driver of the offending vehicle to rebut the oral as well as documentary evidence adduced by the claimants leads to an adverse inference against them. Undeniably they were the best persons to controvert the evidence when the denial of the accident and the involvement of the vehicle is the basis of their defence. The Tribunal has, therefore, rightly concluded that the vehicle was involved in the accident.

In so far as the amount of compensation awarded to the claimants is concerned, the Tribunal has taken the income as Rs.3,000/- and deducted 1/3rd on account of personal expenses of the deceased. Considering the age of the deceased, which was 35 years, a multiplier of 16 was applied. A compensation of Rs.3,84,000/- was assessed in the manner aforesaid and Rs.2,000/- was awarded for funeral expenses and Rs.2,500/- on account of loss of consortium taking the total to Rs.3,88,500/- (which was rounded of Rs.3,90,000/-). The deceased left behind his widow, three minors and his mother and considering the number of dependents, the award cannot be termed to be excessive.

For the reasons stated above, we do not find any infirmity in the award of the Tribunal and the appeal being devoid of any merit is dismissed in limine.

(MAHESH GROVER)
JUDGE

7.11.2006

(UMA NATH SINGH)
JUDGE

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